

Office of the
CLARK COUNTY LAND USE HEARING EXAMINER

1300 Franklin Street
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Vancouver WA 98668-9810
Phone (360) 397-2375

NOTICE TO PARTIES OF RECORD

Project Name: PACIFIC OAKS SUBDIVISION

Case Number: PLD2009-00023; SEP2009-00039; HAB2009-00026

The attached decision of the Land Use Hearing Examiner will become final and conclusive unless a written appeal is filed with the Board of Clark County Commissioners, 6th floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington, no later than 5:00 p.m. on, **October 7, 2009** (14 calendar days after written notice of the decision is mailed).

The Hearing Examiner's procedural SEPA decision is final and not appealable to the Board of County Commissioners.

All other appeals must be written and contain the information required under CCC 40.510.030(H), and placed in the following preferred format:

1. Project Name
2. Case Number
3. Name and signature of each petitioner: The name and signature of each petitioner and a statement showing that each petitioner is entitled to file the appeal under Section 40.510.030(H)(1). If multiple parties file a single petition for review, the petition shall designate one (1) party as the contact representative for all contact with the responsible official.
4. Introduction:
Provide a brief history of the case. This should include a chronology of dates of related applications, cases numbers, and a description of the proposal as it relates to the decision being appealed
5. Standard of Review:
Describe what standard of review (i.e., board's discretion to reverse the examiner's decision) you believe applies to board's review of the alleged errors (e.g., substantial evidence for challenges to findings of fact; de novo review for code interpretation; or, clearly erroneous for issues involving application of code requirements to particular facts).
6. Alleged Errors/Response to Alleged Errors:
Identify the specific aspect(s) of the decision being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error (i.e., reference the relevant exhibits and passages, court cases, etc.).

The appeal fee is **\$716**

The Board of Commissioners shall hear appeals of decisions based upon the written record before the examiners, the examiner's decision, and any written comments received in the office of the Board within the following submittal deadlines measured from the date of the filing of the appeal:

- Fourteen (14) calendar days for the appellant's initial comments;
- Twenty-eight (28) calendar days for all responding comments; and,
- Thirty-five (35) calendar days for appellant reply comments, which are limited to the issues raised in the respondent's comments.

Written comments shall be limited to arguments asserting error in or support of the examiner decision based upon the evidence presented to the examiner.

Unless otherwise determined by the Board for a specific appeal, the Board shall consider appeals once a month, on a reoccurring day of each month. The day of the month on which appeals are considered shall be consistent from month to month as determined by Board.

The Board may either decide the appeal at the designated meeting or continue the matter to a limited hearing for receipt of oral argument. If continued, the Board of Commissioners shall designate the parties or their representatives to present argument, and permissible length thereof, in a manner calculated to afford a fair hearing of the issues specified by the Board of Commissioners. At the conclusion of its public meeting or limited hearing for receipt of oral legal argument, the Board of Commissioners may affirm, reverse, modify or remand an appealed decision.

Mailed on: **September 23, 2009**

Pacific Oaks Subdivision
Planner: Vicki Kirsher

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Pacific Oaks Subdivision
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HEARING DATE: Sept 10, 2009

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**BEFORE THE LAND USE HEARINGS EXAMINER
FOR CLARK COUNTY, WASHINGTON**

In the matter of a Type III application for a 103-lot single-family residential subdivision in three phases on approximately 20 acres zoned R1-6 in unincorporated Clark County, Washington.

FINAL ORDER

**Pacific Oaks Subdivision
PLD2009-00023, SEP2009-00039
& HAB2009-00026**

I. Summary:

This Order is the decision of the Clark County Land Use Hearings Examiner approving with conditions this application for a 103-lot single-family residential subdivision in three phases and related approvals (PLD2009-00023, SE P2009-00039 & HAB2009-00026) – on approximately 20 acres zoned R1-6.

II. Introduction to the Property and Application:

Owner Shing Shing Dev .75 Int.
2102 SE 130th Avenue
Vancouver, WA 98664

Applicant MSE Planning & Engineering, Inc.
Attn: Valerie Uskoski
16105 NE 89th Street
Vancouver, WA 98682

Property Legal Description: Lot 8 (parcel no. 200538) located in the southwest quarter of Section 36; Township 3 North; Range 2 East of the Willamette Meridian. Street Address: 10707 NE 152nd Avenue.

Applicable Laws Clark County Code (CCC) 40.200 (General Provisions); 40.220.010 (Single-Family Residential Districts, R1-6); 40.350.010 (Pedestrian/Bicycle Circulation); 40.350.020 (Transportation Concurrency); 40.350.030 (Street and Road Standards); 40.370.010 (Sewer); 40.370.020 (Water Supply); 40.380 (Stormwater and Erosion Control); 40.500.010 (Procedures); 40.510.030 (Type III Process); 40.520.010 (Legal Lot Determination); 40.540.040 (Subdivisions); 40.440 (Habitat Conservation); 40.450 (Wetland Protection); 40.570 (SEPA); 40.610 & 40.620 (Impact Fees); 15.12 (Fire Code); the Clark County Comprehensive Plan and RCW 58.17 (State Platting Law).

The 20-acre site is zoned R1-6, which allows single-family residential subdivisions outright, subject to preliminary plat review and approval. The development site consists of a single parcel (parcel number 200538) generally located on the east side of NE 152nd Avenue, approximately 960 feet north of its intersection with NE 102nd

Way. There are two existing dwellings and several agricultural buildings on the property, all of which will be removed during construction. The property is within Vancouver's Urban Growth Area, the territory of the Greater Brush Prairie Neighborhood Association, Park Improvement District 5, Fire District 5, the North Orchards Transportation District, and the Battle Ground School District. Clark Regional Waste Water District provides sewer service, and City of Vancouver provides water service to the area.

Lots in this development are proposed to range from 4,555 sf to 11,698 sf, with an average of 6,118 sf., which is consistent with the minimum 6,000 sf average lot size required in the R1-6 zone. However, as originally proposed (Exs. 13 & 15b), the three phases had average lot sizes of 6,105 sf, 7,048 sf and 5,285 sf, respectively. Staff objected to the average lot size for Phase 3 based on C.C. 40.540.040(D)(4)(b), which requires each phase to be an "independent planning unit." Staff interpreted this to mean that each phase must provide all necessary infrastructure and public facilities to serve that phase and meet all of the dimensional requirements, including average lot size, as though each phase were a stand-alone subdivision. The applicant disagreed with staff's interpretation of "independent planning unit" and, under protest, provided an alternative phasing plan (Ex. 23) that retained the original subdivision lay-out and lotting pattern, but changed the phase boundaries so that each achieved the 6,000 sf average lot size. Additionally, the site contains several Oregon white oak trees that, while not mapped as such, qualify as priority habitat. This development stands to impact the priority habitat by removing four immature oak trees, for which the applicant submitted a mitigation plan (Ex. 7) and an arborist's report (Ex. 8).

The application includes the original application and plans (Exs. 5 & 6), a revised preliminary plat and related plans (Ex. 13), an alternate phasing plan (Ex. 23), notes from the November 25, 2008 preapplication conference (Ex. 6, tab 2), a preliminary stormwater design report (Ex. 6, tab 8), a traffic report (Ex. 6, tab 16), a critical areas assessment and mitigation report (Ex. 6, tab 15), an archaeology letter (Ex. 6, tab 14), a wetland determination (Ex. 6, tab 9), water and sewer service provider letters (Ex. 6, tabs 11 & 12, respectively), a letter from the Battle Ground School District addressing student routes to near-by schools (Ex. 6, tab 13), and a SEPA checklist (Ex. 6, tab 10).

III. Summary of the Local Proceeding and the Record:

A preapplication conference for this subdivision was requested on November 6, 2008 and held November 25, 2008 (Ex. 6, tab 2). An application was submitted on May 6, 2009 (Exs. 5 & 6) and deemed fully complete on May 19, 2009 (Exs. 5 & 6). From this sequence, this development is deemed vested as of November 6, 2008. Notice of the Type III application and a September 10, 2009 public hearing on the application was mailed to property owners within 300 feet and the Greater Brush Prairie Neighborhood Association on July 15, 2009 (Exs. 14 & 15). Notices of the application and hearing were also posted on and near the site on August 26, 2009 (Exs. 24 & 27). The County received no appeals and three comments on the SEPA Determination by the submission deadline of July 29, 2009 (Exs. 11, 16 & 17). Comments from the Washington Department of Fish & Wildlife (Ex. 11) and the Clark County Natural Resource Council (Ex. 17) relate to preservation of the site's Oregon white oaks and are addressed in findings below. Staff issued a comprehensive report on the project on August 26, 2009 (Ex. 26) recommending approval of the alternative phasing plan (Exs. 23 & 25) with conditions.

At the commencement of the September 10th hearing, the Hearings Examiner explained the procedure and disclaimed any ex parte contacts, bias, or conflicts of interest. No one objected to the proceeding, notice or procedure. No one raised any procedural objections or challenged the Examiner's ability to decide the matter impartially, or otherwise challenged the Examiner's jurisdiction.

At the hearing, Vicki Kirsher, County planning staff on the project, David Howe, Habitat Biologist, provided verbal summaries of the project, the staff report and the various agency and departmental comments already in the record. LeAnne Bremmer, attorney with Miller Nash, and Sam Moss and Chuck Wriston, with MSE Planning & Engineering, Inc., represented the applicant, described the project, explained details, responded to questions, and generally advocated for the applicant's preferred phasing plan (Ex. 13). No one else requested an opportunity to testify and no one requested a continuance or that the record be left open. The Examiner closed the record at the conclusion of the September 10th hearing and took the matter under consideration.

IV. Findings:

Only issues and approval criteria raised in the course of the application, during the hearing or before the close of the record are discussed in this section. All approval criteria not raised by staff, the applicant or a party to the proceeding have been waived as contested issues, and no argument with regard to these issues can be raised in any subsequent appeal. The Examiner finds those criteria to be met, even though they are not specifically addressed in these findings. The Examiner adopts the following findings related to issues and criteria that were addressed in the staff report:

LAND USE:

Finding 1 – Phasing Requirements: This 103-lot subdivision is proposed in three phases, for which CCC 40.540.040(D)(4) requires the following:

- a. *The phasing plan includes all land within the preliminary plat;*
- b. *Each phase is an independent planning unit with safe and convenient circulation and with facilities and utilities coordinated with requirements established for the entire subdivision; and*
- c. *All road improvement requirements are assured.*

Finding 2 – Lot Dimensional Standards: The proposed subdivision is located within an R1-6 zoning district. This zone requires an average minimum lot area of 6,000 sf and an average maximum area of 8,500 sf. The zone also specifies that each lot shall have an average width of 50 feet and an average depth of 90 feet. According to the Statutory Warranty Deed provided with the application materials, there is a 60-foot access and utility easement adjacent to the southern boundary on the western half of the property. This easement, however, is not shown on the revised preliminary plat (Ex. 13), but the applicant indicated it is in the process of being vacated. Since its presence has a significant impact on both the size and dimensions of Lots 4 through 15, the easement must be vacated prior to development of the subdivision, and a condition requiring this is warranted. See Condition A-1a.

Average lot area of the entire development, as shown on the revised preliminary plan (Ex. 13) is 6,118 sf. Average lot areas for Phases 1-3 are 6,105 sf, 7,048 sf and 5,285 sf, respectively (Ex. 15b). In staff's view the "independent planning unit"

requirement of CCC 40.540.040(D)(4)(b) implicitly requires that each phase meet the 6,000 sf average lot size requirement for an R1-6 subdivision. Because Phase 3 misses the standard by 715 sf, staff recommended denial of the applicant's preferred phasing plan (Ex. 13) and approval of the alternative phasing plan (Ex. 23). The applicant's attorney responded that nothing in the code or the expression "independent planning unit" supports staff's interpretation, and besides, if all phases are constructed in order, it will not matter that the final has an average lot size below 6,000 sf because the entire 103-lot subdivision will be complete and will meet the requirement. The applicant agreed to a condition requiring that Phase 3 (Ex. 13) be platted and constructed last so long as the preferred phasing plan was approved.

The examiner agrees that nothing in CCC 40.540.040(D)(4)(b) or the expression "independent planning unit" explicitly or implicitly requires each phase of a multi-phase subdivision to meet the average lot standard. However, the applicant's representatives claimed no particular hardship, harm or property right deprivation if the applicant were required to comply with staff's interpretation and configure the plan so that each phase meets the standard. The Examiner interprets this admittedly ambiguous code provision to prohibit a situation where only a portion of a multi-phase subdivision is completed without meeting the dimensional or infrastructure requirements of the underlying zone. In that light, it is sufficient to simply require the applicant to construct this development according to its preferred phasing plan (Ex. 13) but to do so in the order proposed. In other words, to ensure the minimum average lot size standard is met, Phase 3 (Ex. 13) must be platted and built last. See Condition A-1b.

Finding 3— Setbacks & Lot Coverage: All subdivisions in the R1-6 zone shall meet the following setbacks:

Front 20 feet
Street side 10 feet
Side 5 feet
Rear 5 feet

The preliminary plan shows building envelopes for those lots impacted by driplines of Oregon white oaks that are supposed to be retained and protected on the site. See Habitat Findings Below. Based on scale, it appears these envelopes meet or exceed prescribed setbacks for the R1-6 zoning district as described above. It should be noted, however, that the building envelope shown on Lot 93 does not reflect how the County measures the front setback and/or the side setback along the northern property line. In order to maintain flexibility and future development options on this lot, the applicant may want to consider modifying this envelope on the final plat. To avoid any confusion at the time of building permit issuance, building envelopes shown on the final plat shall clearly identify distances to all property lines. See Condition D-1. Setbacks for structures constructed on the lots without envelopes will be reviewed during the building permit process. Maximum lot coverage in the R1-6 zone is 50%, and a plat note reflecting this requirement is warranted. See Condition D-11a.

Finding 4 – Landscape Buffers: CCC 40.320.010 requires perimeter landscaping and screening between adjoining properties and uses. The degree and height of the required screening is based upon zoning of both the proposed development and the neighboring properties. Land to the north is zoned AG-20 (Agriculture) while property to the west across NE 152nd Avenue is located in an OC (Office Campus)

zoning district. From this Table 40.320.010-1 requires the following perimeter landscaping:

North..... L3 landscaped 50-foot buffer

West L1 landscaped 5-foot buffer

The L1 standard consists principally of groundcover plants; trees and high and low shrubs also are required. There are two ways to provide trees and shrubs to comply with an L1 standard. Shrubs and trees may be grouped. Groundcover plants, grass lawn or approved flowers must fully cover the landscaped area not in shrubs and trees. Where the area to be landscaped is less than 10 feet deep, one tree shall be provided per 30 linear feet of landscaped area. The L3 standard requires enough high shrubs to form a screen 6 feet high and 95% opaque year-round. In addition, one tree is required per 30 lineal feet of landscaped area or as appropriate to provide a tree canopy over the landscaped area. Ground cover plants must fully cover the remainder of the landscaped area. A 6-foot high wall or fence that complies with an F1 or F2 standard with or without a berm may be substituted for shrubs, but the trees and groundcover plants are still required. The revised plan (Ex. 13) identifies a 50-foot agricultural buffer along the site's northern boundary, which in part incorporates the stormwater tract. Based on length of the northern property boundary, 43 trees shall be planted within this buffer area. The submitted landscape plan does not show the requisite number of trees, which shall be corrected on the final landscape plan. See Condition A-2a. The revised preliminary plat shows landscape materials planted along the western boundary of the site but within the public right-of-way rather than on the development site. CCC 40.320.010(C)(6) requires landscaping and screening to be located on the perimeter of the project site and prohibits landscaping and screening in a public right-of-way or private street easement. The final landscape plan shall be revised to show plantings within landscape buffers located on the perimeter of the project site. See Condition A-2b. The applicant shall install landscaping and irrigation according to an approved landscape plan prior to recordation of the final plat. See Condition D-2.

Finding 5 – Landscaping in Right-of-Way: NE 152nd Avenue is identified as an Urban Collector in the County's Arterial Atlas. As a result, landscaping is required within a planting strip in the right-of-way. The revised preliminary plan (Ex. 13) shows the trees planted with "ground cover and bark mulch under street trees." It is appropriate for Public Works staff to review the proposed plan to ensure it is consistent with that agency's requirements for the type materials allowed in a right-of-way. The applicant shall contact Karyn Morrison at (360) 397-2446, ext. 1658 in the Clark County Public Works for this review. See Condition A-2c.

Finding 6 – Access Easements: The revised plan shows access for Lot 27 from a 20-foot easement across Lot 26. It shall be noted that this easement also provides access for Lot 26. See Condition D-3. In addition, the joint driveway easement for Lots 40 and 41 shall include Lot 42. See Condition D-4. Similarly, Lot 38 shall be noted as having access from the easement shown serving Lot 39. See Condition D-5. It is unclear whether the applicant intends for Lot 56 to obtain access from the easement serving Lot 57. If it does, it will need to be so noted on the plat. See Condition D-6.

Finding 7 – Proximity to Forest Zone: According to CCC 40.510.020(D)(5), all plats, building permits or development approvals issued for residential development activities on or within 500 feet of lands zoned forest (AG-20) shall include a

disclosure regarding the property's proximity to designated resource lands. This declaration shall advise of potential conflicts between commercial agricultural activities on nearby lands and said residential development. In the case of subdivisions, such notice shall be provided in the Developer Covenants to Clark County. See Condition D-10c.

Finding 8 – Manufactured Homes: The applicant has not requested or otherwise indicated that manufactured homes will be placed on any lots in this subdivision. Therefore, pursuant to CCC 40.260.130(A)(2), manufactured homes are prohibited on all lots in this plat. See Condition D-11b.

Finding 9 – Existing Structures: It is the applicant's intention to remove all existing structures from the premises prior to construction of the subdivision. A condition will be imposed to ensure these buildings are removed, with the necessary permits, prior to final construction. See Condition B-4. It should be noted that, as part of these demolition permits, the applicant will be required to comply with all applicable asbestos inspection and control regulation in accordance with procedures of the Southwest Clean Air Agency.

Finding 10 – State Platting Standards (RCW 58.17): With conditions of approval, staff finds the proposed short plat will make appropriate provisions for the public health, safety, and general welfare of the community. Extension and connection of proposed residence to public sewer and water, as well as treatment of any future increase of stormwater runoff will be provided to protect ground water supply and integrity. Impact fees will also be required to contribute a proportionate share toward the costs of school, park and transportation provisions, maintenance and services.

ARCHAEOLOGY:

Finding 1 – Historic and Cultural Preservation: A majority of the 20-acre parcel is located within a high (80 to 100%) probability area for discovery of archaeological resources, as designated on the Archaeological Predictive Model Map of Clark County. This project is considered a high impact development. Therefore, an archaeological predetermination was required. Archaeological Services of Clark County (ASCC) performed a survey of the property and recommended no further archaeological work at this time (Ex. 6, tab 14). The report was reviewed by the Department of Archaeology and Historic Preservation (DAHP), which concurred with this recommendation. However, a condition will be imposed that in the event any cultural resources are discovered in the course of undertaking development activity for this project, DAHP shall be notified. See Conditions A-1-c & D-11c.

HABITAT:

Finding 1 – Applicability: Although not mapped on the site, portions of the property qualify as a Priority Habitat under the Washington Department of Fish and Wildlife (WDFW) Priority Habitat and Species list (Exs. 15a & 17). Specifically, there are Oregon white oaks on the property that meet the state definition of Priority Habitat. CCC 40.440.010(C)(4) states that "official habitat area definitions shall prevail over countywide mapping in determining applicability of this chapter." The stand on the property meets the WDFW definition.

Finding 2 – Mitigation: The applicant will be removing 4 immature Oregon white oaks with the proposed subdivision. The applicant proposes to mitigate for the

habitat impacts by implementing a habitat mitigation plan calling for the placement of snags, bird nest boxes, and oak tree plantings (Ex. 7). Additionally, the applicant submitted an arborist report (Ex. 8) that identifies appropriate protection measures/BMP's for the oak trees sustaining some dripline encroachment. With proper protections for these trees, the proposal meets the County's habitat requirements. See Conditions A-3, D-7, D-11 d & H-1.

Finding 3 – Priority Habitat: The site consists mostly of grazed pasture, extensive blackberry bushes and scattered Oregon white oak, ash, and conifers. The Washington Department of Fish and Wildlife (WDFW) recommends retaining the larger white oak trees on the property (Ex. 11). Oregon white oak has been designated as a "Priority Habitat." White oak, Washington's only native oak species, makes up distinct woodland ecosystems. The various plant communities and stand age mixtures within oak forests provide valuable habitat that contributes to wildlife diversity in Clark County. Oregon white oak represents premiere wildlife habitat in part due to its production of acorns as well as its tendency in older oaks to form multiple holes or cavities. Oregon white oak is used by more than 200 vertebrate species and a profusion of invertebrate species. In addition to conserving the large oaks within the subdivision, WDFW recommends that the cluster of smaller oaks growing along the northern border of Lot 32, be converted to wildlife reserve trees (snags). Placement of bird boxes will help mitigate for nesting trees lost as part of the land conversion. The applicant submitted an Arborist Report for protecting the oaks (Ex. 8) and a mitigation plan identifying measures to compensate for impacts (Ex. 7). These documents incorporate recommendations of WDFW.

DEPARTMENT OF ECOLOGY

Finding 1 – Solid Waste: The Washington Department of Ecology (DOE) submitted a letter, dated July 28, 2009 (Ex. 16), stating that "all grading and filling of land must utilize only clean fill, *i.e.*, dirt or gravel. All other materials, including waste concrete and asphalt, are considered to be solid waste and permit approval must be obtained through the local jurisdictional health department prior to filling." DOE also encourages the developer to "consider the principles of smart growth, urbanism and green building in order to reduce the impacts from the development"; most specifically those techniques referenced in the LEED (Leadership in Energy and Environmental Design) for Neighborhood Development rating system. DOE recommends that, to mitigate the impact of the impervious surfaces, the applicant should use an alternative pervious pavement option as recommended in the Low Impact Development Technical Manual. The applicant has been provided with a copy of the DOE letter and is encouraged to incorporate the Departments recommendations.

Finding 2 – Toxic Clean-up: There are no known contaminated sites within ½ mile of the development site, but if environmental contamination is discovered on the site it must be reported to Ecology's Southwest Regional Office. See Condition B-5.

Finding 3 – Water Quality: Any discharge of sediment-laden runoff or other pollutants to water of the state is a violation of state statute. Erosion control measures must be in place prior to any clearing, grading or construction on site and preventative measures must be taken to ensure that discharge does not occur. An erosion and dust control plan is required by County Code. See Condition A-8. Construction activities will be monitored by inspection staff to ensure compliance with

the approved plan. The project may require a construction stormwater permit, also known as the National Pollution Discharge Elimination System (NPDES) and State Waste Discharge Permit for Stormwater Discharges Associated with Construction. This permit is required for projects that meet both of the following conditions:

- One or more acres of soil surface area will be disturbed by construction activities; and
- The site already has offsite discharge to waters of the state or storm drains or will have offsite discharge during construction.

The applicant has been provided a copy of the DOE letter, and will be required to obtain any permits required. See Condition G-2.

Finding 4 – Water Resources: The developer is responsible for inspecting the site to determine the location of all existing wells. Any unused wells must be properly decommissioned and decommission reports submitted to Ecology as described in WAC 173-160-381. This includes resource protection wells and any dewatering wells installed during the construction phase of the project.

TRANSPORTATION:

Finding 1 – Pedestrian/Bicycle Circulation Plan: CCC 40.350.010 requires pedestrian circulation facilities that comply with the Americans with Disabilities Act. It does not appear pedestrian circulation to the Hockinson Community Park to the northeast is feasible. The proposal meets the pedestrian circulation code.

Finding 2 – Road Circulation: The plan includes a connection with proposed Gustafson Subdivision to the south (PAC2008-00198), which had proposed circulation to the east to existing Nehalem Subdivision. Circulation to the north is not feasible due to extensive agricultural land. The project complies with the circulation plan requirements, CCC 40.350.030(B)(2).

Finding 3 – Roads: NE 152nd Avenue is classified as a C-2 Urban Collector. The required minimum frontage improvements include 30 feet of right-of-way, 19 feet of paved width, curb, sidewalk, and detached 6-foot sidewalk. It appears the applicant has proposed the required frontage improvements. Per Table 40.350.030-2, the proposed intersection curb return radii at the approach to NE 152nd Avenue shall be at least 35 feet with a minimum 25-foot right-of-way chord. The proposed curb return radii do not meet the minimum requirement. This deficiency shall be corrected on the final engineering plans. See Condition A-4a. The proposed on-site public roads are required to be consistent with Standard Detail #14. The minimum standards associated with an Urban Local Residential Access road include 46 feet of right-of-way, 28 feet of paved width, sidewalks, curbs, and gutters. It appears the applicant has proposed on-site public roads that meet the minimum improvement requirements. Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from intersecting property lines or, where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or be a joint use driveway at this property line. See Condition A-4b. An emergency access road may be required depending on what is proposed for Gustafson Subdivision to the south. A local access road may serve a maximum of 100 lots. If necessary, the applicant shall provide an emergency access to the proposed subdivision, which could come in the form of a permanent or temporary access to internal proposed NE 153rd Avenue from NE 152nd Avenue. A commercial driveway approach and thickened sidewalk would be required. The proposal shall

meet requirements of CCC 40.350.030(B)(4)(b)(4)(a). See Condition A-4c. The applicant is responsible for providing all necessary transportation improvements required for each individual phase including temporary turnarounds. The required transportation improvements for each phase will be reviewed during final engineering review. See Condition A-4d.

Finding 4 – Sight Distance: The applicant submitted a sight distance analysis dated March 30, 2009 indicating that, both to north and south along NE 152nd Avenue, sight distance was exceeded (Ex. 6, tab 16). This development shall achieve the minimum sight distances standards for intersections and driveways set forth in CCC 40.350.030(B)(8). Additional building setbacks may be required for corner lots in order to maintain adequate sight distance. The final engineering plans shall show sight distance triangles for all corner lots. Landscaping, trees, utility poles, and miscellaneous structures will not be allowed to impede required sight distance requirements at all proposed driveway approaches and intersections. See Condition A-4e.

TRANSPORTATION CONCURRENCY:

Finding 1 – Trip Generation: The applicant submitted a traffic study pursuant to CCC 40.350.020 (D)(1) analyzing trip generation for a 107-lot single-family detached subdivision (Ex. 6, tab 16). The traffic study estimated the weekday a.m. and p.m. peak-hour trip generation at 79 and 106 new trips, respectively, using nationally accepted data published by the Institute of Transportation Engineers.

Finding 2 – Site Access: Traffic conditions are usually expressed using a scale that quantifies the ability of a facility to meet the needs and expectations of the driver. This scale is graded from A to F and is referred to as level-of-service (LOS). A driver who experiences an LOS A condition would expect little delay. A driver who experiences an LOS E condition would expect significant delay, but the traffic facility would be just within its capacity to serve needs of the driver. A driver who experiences an LOS F condition would expect significant delay with traffic demand exceeding capacity of the facility with the result being growing queues of traffic. Congestion or concurrency LOS standards are not applicable to site accesses or intersections that are not regionally significant; however, the LOS analysis provides information on the potential congestion and safety problems that may occur in the vicinity of the site. The traffic study shows that NE 109th Street will be constructed to serve this development. NE 109th Street will extend from NE 152nd Avenue into the development terminating approximately 100 feet east of the proposed intersection of NE 109th Street/NE 152nd Avenue. The traffic study also indicates that the proposed intersection of NE 109th Street/NE 152nd Avenue will serve as the primary ingress/egress for the proposed development. The traffic study indicates that the proposed intersection of NE 109th Street/NE 152nd Avenue will have an estimated LOS B through the 2012 build-out horizon. The study also shows that the LOS was evaluated in the a.m. and p.m. peak hour traffic conditions in existing and build-out scenarios, meeting requirements outlined in CCC 40.350.020 (G)(1)(d) and (f). County staff concurred with the traffic study findings, and on that basis, so too does the Examiner.

Finding 3 – Concurrency: The proposed development is required to meet standards in CCC 41.350.020(G) for corridors and intersections of regional significance within 2 miles of the proposed development. Typically, the county's transportation model is used to determine what urban area developments are currently being reviewed, are

approved, or are under construction in the vicinity of the proposed development. The traffic these developments generate is referred to as "in-process traffic" and will ultimately contribute to the same roadway facilities as the proposed development. This "in-process traffic" is used to evaluate and anticipate area growth and its impact on intersection and roadway operating levels with and without the proposed development, helping to determine if roadway mitigation necessary to reduce transportation impacts. The "in-process traffic" information that can be obtained from the county's transportation model is from developments that generate 10 vehicle trips or more in the p.m. peak hour travel time. Developments in an urban area generating fewer than 10 vehicle trips (less than 10 single-family residential lots) in the p.m. peak hour travel time do not explicitly show in the County's model but are accounted for in a "background growth rate" of 1% per year. This "background growth rate" is a conservative rate to capture the collective effect from all of the smaller developments in the immediate area and out of area traffic also.

Signalized Intersections - The applicant's study shows the 2-mile radius study area to include regionally significant signalized intersections. The county's model evaluated the operating levels, travel speeds and delay times for the remaining regionally significant signalized intersections. This analysis showed that individual movements during peak hour traffic conditions had approach delays that did not exceed the maximum 240 seconds of delay in the build-out year. From this, county staff determined that this development will comply with adopted Concurrency standards for signalized intersections.

Unsignalized Intersections - County staff performed an evaluation of operating levels and delay standards of unsignalized intersections within the two-mile study area. The county's model indicates that intersections of regional significance in the development area will operate, during both the a.m. and p.m. peak hours, with a LOS better than the minimum allowable LOS E for unsignalized intersections, with the exception of the NE 117th Avenue/NE 107th Street intersection.

The County's Traffix TM model reports a LOS F upon build-out of the proposed development for the intersection NE 117th Avenue/NE 107th Street in its current configuration. County staff consulted with the WSDOT regarding this intersection and staff from both agencies concurred that a traffic signal and other intersection improvements were warranted at this location. Previous development has encumbered p.m. peak hour trips that cause concurrency failure at the intersection of NE 117th Avenue/NE 107th Street. Because of this concurrency failure, it has been determined that signalization will need to be installed at this location. Previously approved developments that access directly on the western leg have conditions of approval to build this traffic signal. The applicant's traffic study indicates that there are no trips assigned to the failing approach in the NE 117th Avenue/NE 107th Street intersection. Staff concurred with the applicant's traffic study findings. Because this proposed development will not contribute to the degradation of the NE 107th Street/NE 117th Avenue intersection, the Examiner finds that additional analysis or mitigation at the intersection of NE 107th Street/NE 117th Avenue is not required.

Concurrency Corridors - Evaluation of the concurrency corridor operating levels and travel speeds represented in the county's model of the study corridors of regional significance, under county Jurisdiction, yielded operating levels and travel speeds with an acceptable level of service. County staff determined that this development will

comply with adopted Concurrency Standards for corridors, signalized and unsignalized intersections under County jurisdiction with required mitigations as outlined above. Based on staff's analysis and favorable recommendation, the Examiner agrees. The county incurred costs to analyze the proposed development's impacts, which the applicant shall reimburse. See Condition A-6.

Safety - Mitigation for off-site safety deficiencies may only be a condition of development approval pursuant to CCC 40.350.030(B)(6), which provides that "nothing in this section shall be construed to preclude denial of a proposed development where off-site road conditions are inadequate to provide a minimum level of service as specified in Section 40.350.020 or a significant traffic or safety hazard would be caused or materially aggravated by the proposed development; provided, that the applicant may voluntarily agree to mitigate such direct impacts in accordance with the provisions of RCW 82.02.020."

Finding 5 – Traffic Signal Warrants: The applicant's traffic study analyzed the intersection of NE 152nd Avenue/NE 109th Street (proposed site access) for signal warrants and concluded that signal warrants were not met for this intersection. Staff concurred, and on that basis the Examiner finds that no further analysis is required.

Finding 6 – Turn Lane Warrants: Turn lane warrants are evaluated at unsignalized intersections to determine if a separate left or right turn lane is needed on the uncontrolled roadway. The traffic study analyzed left turn lane warrants at the site access and determined that a left turn lane was not warranted at the site access due to low left turning volumes. Staff concurred, and on that basis the Examiner finds that no further analysis is required. The applicant's study also analyzed the site access on NE 152nd Avenue for right-turn lane warrants. The study indicated that a right turn pocket, or taper should be considered. Because of this, the applicant's study evaluated the need for a right-turn pocket, or taper using the WSDOT Design Manual right turn guidelines. The applicant's study concluded that:

- (1) Accident history, along the site frontage, for the most recent 5-year period does not exceed thresholds that would warrant further analysis;
- (2) Sight distance at the site driveway is over 500 feet in the north and south directions;
- (3) The proposed site access geometrics will not require vehicles to slow greatly below the speed of the through vehicles; and
- (4) There will be a good LOS at the site access for vehicles entering from the north or south.

Based on the guidelines for creating right-turn lanes and lack of crash history that would be indicative of safety issues at the proposed site access, county staff agreed with the traffic study findings, stating that construction of a northbound right-turn pocket, or taper would not be necessary to accommodate trips generated by the proposed development. Based on this recommendation, the Examiner agrees.

Finding 6 – Historical Accident Situation: The applicant's traffic study analyzed the accident history obtained from Clark County and WSDOT covering the period between 2003 and 2008. The traffic study determined that the accident rates for the study intersections, in the vicinity of the development, do not exceed thresholds that would warrant additional analysis. Staff concurred with the applicant's findings, and on that basis the Examiner finds that no further analysis is required.

STORMWATER:

Finding 1 – Applicability: The Stormwater and Erosion Control Ordinance (CCC chapter 40.380) applies to development activities that result in 2,000 sf or more of new impervious area within the urban area; the platting of single-family residential subdivisions in an urban area; and all land disturbing activities not exempt in CCC 40.380.030. The project will create more than 2,000 sf of new impervious surface, involves platting of a single-family residential subdivision, and is a land disturbing activity not exempted in CCC 40.380.030. Therefore, this development is subject to and shall comply with the Stormwater and Erosion Control Ordinance (CCC chapter 40.380). The erosion control ordinance is intended to minimize the potential for erosion and a plan is required for all projects meeting applicability criteria listed in CCC 40.380.050. This project is subject to the erosion control ordinance.

Finding 2 – Stormwater Plan: The preliminary stormwater report (Ex. 6, tab 8) indicates that the roads, sidewalks, driveways and planter strips will be directed to a detention facility located to the northeast of the site prior to release into China Ditch. The report states that roofs, lot area drains, and low point drains for the homes will be placed in individual private infiltration systems. The report also indicates that the infiltration tests were not performed since infiltration is not proposed with this site. Staff assumed the latter was correct as hydrological computations show that roof runoffs also will be directed to the detention system. If the applicant chooses to infiltrate the roof runoffs, infiltration testing that complies with CCC chapter 40.380 is required prior to final construction approval. See Condition A-7a. The facilities are proposed to be publicly owned and maintained. The report goes on to explain that stormwater will be treated with either a StormFilter (Contech Stormwater Solutions) or biological methods. The applicant provided general information for StormFilter but did not provide calculations for sizing the system. Also, the preliminary stormwater report does not include approximate size or location of the bioswale. Furthermore, the project is located within the Lacamas Watershed requiring advanced BMPs for nutrient control in compliance with CCC 40.380.040(B)(5). The preliminary stormwater plan does not propose any of the acceptable BMPs for achieving advanced nutrient control listed in CCC 40.380.040(B)(5)(b). Staff found the proposed stormwater treatment to be inadequate. The applicant shall revise the stormwater plan to include advanced nutrient removal and a different type of BMP such as wet-pond or constructed wetland. Revisions to the stormwater plan may significantly change the proposed development plans. If that happens, the developer shall resubmit the plans for review and approval through the post decision process. See Condition A-7b.

Finding 3 – Site Conditions and Stormwater Issues: Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto an adjacent property or block existing drainage from adjacent lots. See Condition A-7c. According to CCC 40.380.050(B)(8), properties and waterways downstream from development sites shall be protected from erosion due to increases in the volume, velocity, and peak flow rate of stormwater runoff from the project site. The applicant shall perform an offsite analysis extending a minimum of ¼ mile downstream from the development site in compliance with CCC 40.380.040(B)(2). See Condition A-7d. According to the applicant, the proposal includes the release of pre-developed stormwater flows into easements owned and maintained by a Clark County Drainage District. The applicant shall provide written approval from the applicable drainage district for the stormwater proposal and shall comply with any corresponding

requirements. See Condition A-7e. The preliminary stormwater report identifies the 100-year/24-hour storm precipitation depth as being 4.0 inches with the 10-year/24-hour storm event precipitation depth is 3.0 inches. In addition, the 2-year/24-hour storm event precipitation depth is identified as being 2.0 inches. Clark County isopleth maps indicate the precipitation depths are closer to 4.8 inches, 3.5 inches, and 2.5 inches. These figures shall be used for the 100-year, 10-year, and 2-year storms, respectively. It is anticipated that both water quantity and quality control facilities will increase in size to accommodate the larger storm events. See Condition A-7f. The applicant's preliminary stormwater plan does not appear to consider the presence of trees in the southeastern corner of the property for the predeveloped state. This situation shall be corrected. See Condition A-7g. The proposal shall comply with stormwater quantity control in accordance with provisions of CCC 40.380.040(C)(3)(d). See Condition A-7h. Each individual proposed phase shall be designed with sufficient stormwater management facilities and shall comply with CCC chapter 40.380. The required stormwater improvements for each phase will be reviewed during final engineering review. See Condition A-7i.

FIRE PROTECTION:

Finding 1 – Fire Marshal Review: This application was reviewed by the Fire Marshal's Office, which provided comments and recommended conditions of approval. The developer shall implement these conditions, and where there are difficulties in meeting these conditions or if additional information is required, the developer should contact the Fire Marshal's office immediately.

Finding 2 – Building Construction: Building construction occurring subsequent to this application shall comply with the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Condition E-1.

Finding 3 – Fire Flow: Fire flow in the amount of 1,000 gallons per minute supplied at 20 psi for 60 minutes duration is required for this application. Information from the water purveyor indicates that required fire flow is available at the site and is estimated at 2,000 gpm.

Finding 4 – Fire Hydrants: Fire hydrants are required for this application, and either the indicated number or the spacing of the fire hydrants is inadequate. The applicant shall provide fire hydrants such that the maximum spacing between hydrants does not exceed 700 feet and no lot or parcel is farther than 500 feet from a fire hydrant as measured along approved fire apparatus access roads. See Condition A-9a. The local fire district chief shall review and approve the exact location of fire hydrants. The applicant shall contact the Vancouver Fire Department at (360) 759-4418 to arrange for location approval. See Condition A-9b. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. See Condition A-9c. In addition, the applicant shall provide and maintain a 3-foot clear space around the circumference of all fire hydrants. See Condition A-9d.

Finding 5 - Fire Apparatus Access: The roadways and maneuvering areas as indicated in the application meet requirements of the Clark County Road Standards. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. See Conditions A-9e & F-1.

UTILITIES

Finding 1 – Public Water Service: All lots in this subdivision shall be connected to public water. The site is located in the City of Vancouver service area for water. The applicant has submitted a current utility review from this agency confirming that water service is available to the site. Prior to final plat approval, the applicant shall provide documentation from the City of Vancouver that water connections to the new lots have been installed and approved. See Condition D-8.

Finding 2 – Sanitary Sewer Service: The site is not currently in a public sewer service area. Clark Regional Wastewater District, however, is finalizing the process for annexing this site and surrounding properties into their service area. The applicant has submitted a current utility review from this agency identifying where sewer connections are located, and indicating that sewer can be provided once annexed into the district. Prior to final plat approval, the applicant shall provide documentation from this agency indicating that sewer connections to the resulting lots have been installed and approved. See Condition D-9.

Finding 3 – Health Department: Submittal of a "Health Department Evaluation Letter" is required as part of the Final Construction Plan Review application. If the Evaluation Letter specifies that an acceptable "Health Department Final Approval Letter" must be submitted, the Evaluation Letter will specify the timing of when the Final Approval Letter must be submitted to the county (e.g., at Final Construction Plan Review, Final Plat Review or prior to occupancy). The Health Department Evaluation Letter serves as confirmation that the Health Department conducted an evaluation of the site to determine if existing wells or septic systems are on the site, and whether any structures on the site have been/are hooked up to water and/or sewer. The Health Department Final Approval Letter will confirm that all existing wells and/or septic systems have been abandoned, inspected and approved by the Health Department. See Condition A-10.

IMPACT FEES:

Finding 1 - Impact Fees: The site is located in Park Improvement District 5, the Battle Ground School District, and the North Orchards Transportation District. All new residential units constructed in this development (101 single-family units, which accounts for the 2 lawfully existing homes that will be removed from the site) will impose new service demands on the local schools, parks and transportation system. Therefore, all new residential units in this development are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand, payable at the time of building permit issuance:

- (1) Park impact fee (PIF) for the Park Improvement District No. 5, which has a total PIF of \$1,799 per lot (\$1,359 for acquisition and \$440 for development)
- (2) Traffic impact fee (TIF) for the North Orchards Transportation District, which has a TIF of \$5,539 per lot (\$2,105.05 local and \$3,434.55 regional)
- (3) School impact fee (SIF) for the Battle Ground School District, which has a SIF of \$8,290 per lot.

All impact fees due shall be paid prior to the issuance of a building permit for each lot. If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate. See Conditions D-10d & E-2.

SEPA DETERMINATION

Based on the application materials and agency comments, staff determined that there were no probable significant adverse environmental impacts associated with this proposal that could not be avoided or mitigated through the conditions of approval listed below. Accordingly, the County, as the lead agency, determined that an environmental impact statement was not needed. The County issued and published its Determination of Nonsignificance for this project on July 15, 2009 (Ex. 14). Three timely comments and no appeals were received by the comment and appeal deadline of July 29, 2009. Those comments are all adequately addressed in findings and/or conditions of approval; therefore, the SEPA determination is final.

V. Decision and Conditions:

Based on the foregoing findings and except as conditioned below, this application is approved in general conformance with the developer's revised proposal, the preliminary plat and related plans (Exs. 5 & 6) as subsequently revised (Ex. 13). This approval is granted subject to the requirements that the developer, owner or subsequent developer (the "developer") shall comply with all applicable code provisions, laws and standards and the following conditions. These conditions shall be interpreted and implemented consistently with the foregoing findings.

A	Final Construction Plan Review for Land Division Review & Approval Authority: Development Engineering
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Prior to construction, a Final Construction shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

- A-1 Final Construction Plan** - The developer shall submit and obtain County approval of a final construction plan in conformance with CCC 40.350 and the following additional requirements:
- a.A ccess Easement – The developer shall submit evidence demonstrating that the 60-foot access easement running along the southern boundary of the development site has been properly vacated. See Land Use Finding 2.
 - b. Phasing - The subdivision shall be developed in three phases as shown in the developer's preferred phasing plan (Ex. 13), but Phase 3 shown on this plan shall be the final phase platted and constructed.
 - c.A rchaeology - A note shall be placed on the face of the final plat and construction plans stating:

"If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines." See Archaeology Finding 1.
- A-2 Final Landscape Plan** - The developer shall submit and obtain county approval of a final landscape plan, including landscaping within the public right-of-way,

consistent with the approved preliminary landscape plan and the following additional requirements:

- a. The final landscape plan shall be revised to show 43 trees planted in the 50-foot landscape buffer along the subdivision's northern boundary. See Land Use Finding 4.
- b. The required 5-foot L1 buffer along the west property line shall be located on the perimeter of the site rather than in the public right-of-way.
- c. The developer shall contact Karyn Morrison of Public Works at (360) 397-2446, ext. 1658 to arrange for approval of species to be planted within the public right-of-way. See Land Use Finding 5.

A-3 Habitat:

- a. A note shall be placed on the Engineering Construction Plans stating "prior to construction, tree protection fencing shall be installed at the dripline of protected oaks."
- b. All tree protection fencing shall be shown on the face of the Engineering Construction Plans set.
- c. All arborist recommendations and BMP's in the White Oak Mitigation Plan (July 10, 2009, Ex. 7) shall be shown as Engineering Construction Plan notes.
- d. All habitat mitigation planting details shall be included on the Engineering Construction Plans set.

A-4 Final Transportation Plan/On-Site - The developer shall submit and obtain County approval of a final transportation design in conformance with CCC chapter 40.350 and the following additional requirements:

- a. Per Table 40.350.030-2, the intersection curb return radii at the approach to NE 152nd Avenue shall be at least 35 feet with a minimum 25-foot right-of-way chord. See Transportation Finding 3.
- b. Per CCC 40.350.030(B)(4)(b)(1)(b), corner lot driveways shall have a minimum separation of 50 feet from the intersecting property lines or, where this is impractical, the driveway may be located 5 feet from the property line away from the intersection or be a joint use driveway at this property line. See Transportation Finding 3.
- c. The proposal shall meet emergency access requirements in CCC 40.350.030(B)(4)(b)(4)(a). See Transportation Finding 3.
- d. The developer is responsible for providing all necessary transportation improvements required for each individual phase including temporary turnarounds. See Transportation Finding 3.
- e. The proposal shall meet sight distance requirements in CCC 40.350.030(B)(8). See Transportation Finding 3.

A-5 Transportation: The developer shall prepare and submit for county approval a final transportation plan that meets the requirements of CCC chapter 40.350 and the following additional requirements:

- a. Signing and Striping Plan: The developer shall submit a signing and striping plan and a reimbursable work order, authorizing County Road Operations to perform any signing and pavement striping required within the County right-of-way. This plan and work order shall be approved by the Department of Public Works prior to final plat approval.
- b. Traffic Control Plan: Prior to issuance of any building or grading permits for the development site, the developer shall obtain written approval from Clark County Department of Public Works for the developer's Traffic Control Plan (TCP). The TCP shall govern all work within or impacting the public transportation system.

A-6 Final Transportation Plan/Off Site (Concurrency) - The developer shall reimburse the County for the cost of concurrency modeling in an amount not to exceed \$2,000. See Concurrency Finding 3.

A-7 Final Stormwater Plan - The developer shall submit and obtain County approval of a final stormwater plan for on and off-site facilities (as applicable), designed in conformance to CCC chapter 40.380 and the following conditions of approval:

- a. If the developer chooses to infiltrate the roof drains, infiltration testing in compliance with CCC chapter 40.380 will be required prior to final construction approval. See Stormwater Finding 2.
- b. The developer shall revise the stormwater plan to include advanced BMPs for nutrient control in compliance with CCC 40.380.040(B)(5). Significant changes to the proposed development plan will require a post decision review and approval. See Stormwater Finding 2.
- c. Per CCC 40.380.040(C)(1)(g), the project shall not materially increase or concentrate stormwater runoff onto any adjacent property or block existing drainage from adjacent lots. See Stormwater Finding 3.
- d. The developer shall perform an offsite analysis extending a minimum of ¼ mile downstream from the development site in compliance with CCC 40.380.040(B)(2). See Stormwater Finding 3.
- e. The developer shall provide written approval from the applicable Clark County Drainage District for the stormwater proposal and shall comply with any corresponding requirements. See Stormwater Finding 3.
- f. Clark County isopluvial maps indicate the precipitation depths are closer to 4.8 inches, 3.5 inches, and 2.5 inches. These figures shall be used for the 100-year, 10-year, and 2-year storm calculations. See Stormwater Finding 3.

- g. The stormwater calculations shall consider the presence of trees in the southeastern corner of the property for the pre-developed state. See Stormwater Finding 3.
 - h. The proposal shall comply with the stormwater quantity control requirements described in CCC 40.380.040(C)(3)(d). See Stormwater Finding 3.
 - i. Each individual phase shall be designed with sufficient stormwater management facilities and shall comply with CCC chapter 40.380. See Stormwater Finding 3.
- A-8 Erosion Control Plan** - The developer shall submit and obtain County approval of a final erosion control plan designed in accordance with CCC chapter 40.380.
- A-9 Fire Marshal Requirements:** The developer shall implement all of the conditions recommended by the Fire Marshal, including the following:
- a. The developer shall provide fire hydrants so that the maximum spacing between hydrants does not exceed 700 feet and no lot is farther than 500 feet from a fire hydrant as measured along approved fire apparatus access roads. See Fire Protection Finding 4.
 - b. The developer shall contact the Vancouver Fire Department at (360) 759-4418 to obtain Fire Marshal approval of all fire hydrant locations. See Fire Protection Finding 4.
 - c. Fire hydrants shall be provided with appropriate 'storz' adapters for the pumper connection. See Fire Protection Finding 4.
 - d. The developer shall provide and maintain a 3-foot clear space around all fire hydrants. See Fire Protection Finding 4.
- A-10 Health Department Review** - Submittal of a "Health Department Project Evaluation Letter" is required as part of the Final Construction Plan Review or early grading application. If the Evaluation Letter specifies that certain actions are required, the Evaluation Letter will specify the timing of when those activities must be completed, e.g., prior to Final Construction Plan Review, construction, Provisional Acceptance, Final Plat Review, building permit issuance, or occupancy, and approved by the Health Department. See Utilities Finding 3.
- A-11 Excavation and Grading** – All excavation and grading shall comply with CCC chapter 14.07.

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

- B-1 Pre-Construction Conference** - Prior to construction or issuance of any grading or building permits, the Developer shall attend a pre-construction conference with the County.

- B-2 Erosion Control** - Prior to construction, erosion/sediment controls shall be in place. Sediment control facilities shall be installed that will prevent any silt from entering infiltration systems. Sediment controls shall be in place during construction and until all disturbed areas are stabilized and erosion potential no longer exists.
- B-3 Erosion Control** - Erosion control facilities shall not be removed without County approval.
- B-4 Demolition Permits** - Prior to demolition of structures on the site, the developer shall obtain demolition permits from the Clark County Building Division. See Land Use Finding 9.
- B-5 Contamination** - If during the course of construction activities on the site contamination is discovered, it shall be reported to the Washington Department of Ecology. Contact the Environmental Report Tracking System Coordinator at the Southwest Regional Office at (360) 407-6300 for more information.

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1 Building Envelopes:** Building envelopes shown on the final plat shall clearly identify distances to all property lines. See Land Use Finding 3.
- D-2 Verification of the Installation of Required Landscape** - Prior to approval of a final plat, the developer shall provide verification in accordance with CCC 40.320.030(B) that the required landscape has been installed in accordance with the approved landscape plan. See Land Use Finding 4.
- D-3 Access Easement:** The 20-foot access easement providing access for Lot 27 shall include a note that Lot 26 is also served by this easement. See Land Use Finding 6.
- D-4 Access Easement:** The joint driveway easement serving Lots 40 and 41 shall also include Lot 42. See Land Use Finding 6.
- D-5 Access Easement:** Lot 38 shall be noted as having access from the easement shown serving Lot 39. See Land Use Finding 6.
- D-6 Access Easement:** If Lot 56 is to derive access from the easement serving Lot 57, it shall be so noted on the final plat. See Land Use Finding 6.
- D-7 Habitat:**
- a. The developer shall implement the "Oregon White Oak Mitigation Plan" submitted by Ecological Land Services, Inc. and dated June 2009, except as amended herein.
 - b. All habitat areas shall be clearly shown on the face of the Final Plat.

- c. The developer shall place habitat signs along the habitat boundary at 100-foot intervals or one sign per lot, whichever is less. Habitat signs shall read "habitat conservation area -- please leave in a natural state."
 - d. The developer shall submit a financial guarantee acceptable to Planning Director for the proposed mitigation that is adequate to cover required performance and maintenance costs.
 - e. The developer shall enter all remaining habitat areas into a Habitat Conservation Covenant.
 - f. All mitigation monitoring inspection fees shall be paid prior to Final Plat.
- D-8** The developer shall provide documentation from City of Vancouver that water connections to the new lots have been installed and approved. See Utilities Finding 1.
- D-9** The developer shall provide documentation from Clark Regional Wastewater District that public sewer connections to the new lots have been installed and approved. See Utilities Finding 2.
- D-10 Developer Covenant** - A "Developer Covenant to Clark County" shall be submitted for recording that includes the following covenants:
- a. Critical Aquifer Recharge Areas: "The dumping of chemicals into the groundwater and the use of excessive fertilizers and pesticides shall be avoided. Homeowners are encouraged to contact the State Wellhead Protection program at (206) 586-9041 or the Washington State Department of Ecology at 800-RECYCLE for more information on groundwater /drinking supply protection."
 - b. Erosion Control - "Building Permits for lots on the plat shall comply with the approved erosion control plan on file with Clark County Building Department and put in place prior to construction."
 - c. Land Near Agricultural Resources: "Land owners and residents are hereby notified that this plat is located within 500 feet of lands zoned agriculture (AG-20) or is in current use under RCW Chapter 84.34. Therefore, the subject property is located within or near designated agricultural lands on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any 24 hour period, storage and disposal of manure and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides." See Land Use Finding 7.
 - d. Impact Fees: "In accordance with CCC chapter 40.610, the following School (SIF), Park (PIF) and Traffic (TIF) Impact Fees shall be paid for each dwelling in this subdivision, with credit given to the developer for the two existing lawful dwellings that were removed from the site:
 - SIF of \$8,290 per dwelling for Battle Ground School District;

- PIF of \$1,799 per dwelling for Park District 5 (\$1,359 for acquisition and \$440 for development), and
 - TIF of \$5,539 per dwelling for North Orchards Impact Fee area.
- The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for more than three years following plat approval shall be recalculated using the then-current regulations and fees schedule."

D-11 Plat Notes - The following notes shall be placed on the final plat:

- a. Lot Coverage : "Maximum lot coverage for all structures on individual lots is 50%." See Land Use Finding 3.
- b. Mobile Homes: "Mobile homes are not permitted on any lots subject to the requirements of CCC 40.260.130."
- c. Archaeology: "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines." See Archaeology Finding 1.
- d. Habitat: "No unauthorized clearing of oaks or associated native understory vegetation shall take place during or after construction." See Habitat Findings.
- e. Sidewalks: "Prior to issuance of occupancy permits, sidewalks shall be constructed along all the respective lot frontages."
- f. Utilities: "An easement is hereby reserved under and upon the exterior 6 feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable, water and sanitary sewer services. Also, a sidewalk easement, as necessary to comply with ADA slope requirements, shall be reserved upon the exterior 6 feet along the front boundary lines of all lots adjacent to public streets."
- g. Driveways: "No direct access is allowed onto NE 152nd Avenue."
- h. Driveways: "All residential driveway approaches entering public roads shall comply with CCC chapter 40.350."

E	Building Permits Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

- E-1** Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be imposed at the time of building construction as a result of the permit review and approval process. See Fire Protection Finding 2.

E-2 Impact Fees – All new dwellings in this development (101 single-family units, which accounts for the 2 lawful existing dwellings that will be removed from the site) are subject to the following impact fees authorized by CCC chapter 40.610 to defray the cost of serving this new demand. The developer shall pay the following impact fees at the time of building permit issuance:

- (1) Park impact fee (PIF) for the Park Improvement District No. 5, which has a total PIF of \$1,799 per lot (\$1,359 for acquisition and \$440 for development)
- (2) Traffic impact fee (TIF) for the North Orchards Transportation District, which has a TIF of \$5,539 per lot
- (3) School impact fee (SIF) for the Battle Ground School District, which has a SIF of \$8,290 per lot.

If a building permit application is made more than 3 years following the date of this preliminary plat approval, the impact fee will be recalculated according to the then-current ordinance rate.

F	Occupancy Permits
	Review & Approval Authority: Building

Prior to issuance of an occupancy permit, the following condition shall be met:

F-1 Fire Marshal - There shall be an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. See Fire Protection Finding 5.

G	Development Review Timelines & Advisory Information
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G-1 Land Division - Within 5 years of preliminary plan approval, the developer shall submit a Fully Complete application for Final Plat review, after which the preliminary plat approval shall automatically expire.

G-2 DOE Stormwater Permit - A stormwater permit from the Department of Ecology (DOE) is required if both of the following conditions occur:

- a. The development disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; AND
- b. There is a possibility that stormwater could run-off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or multiple phases will count toward the 1-acre threshold. This applies even if the developer is responsible for only a small portion (less than one acre) of the larger project planned over time. The developer shall Contact the DOE for further information.

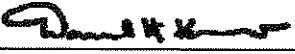
G-3 Building and Fire Safety: Building and Fire, Life, and Safety requirements shall be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or developer to insure that Building

Safety and Fire Marshal requirements are met. Land use decisions do not waive any building or fire code requirements.

H Post Development Requirements

H-1 Habitat - The developer shall monitor all habitat mitigation areas for a period of 3 years and submit monitoring reports and appropriate fees to the Planning Director. All photo and monitoring data shall be collected during the most recent growing season prior to report submittal.

Date of Decision: September 23, 2009.

By: 
Daniel Kearns,
Land Use Hearings Examiner

NOTE: Only the Decision and Conditions of approval, if any, are binding on the applicant, owner or subsequent developer of the subject property as a result of this Order. Other parts of the final order are explanatory, illustrative or descriptive. There may be requirements of local, state or federal law or requirements which reflect the intent of the applicant, county staff, or the Hearings Examiner, but they are not binding on the applicant as a result of this final order unless included as a condition of approval.

Notice of Appeal Rights

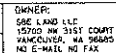
An appeal of any aspect of the Hearings Examiner's decision, except the SEPA determination, may be appealed to the Board of County Commissioners only by a party of record. A party of record includes the applicant and those individuals who signed the sign-in sheet or presented oral testimony at the public hearing or submitted written testimony prior to or at the public hearing on this matter.

Any appeal of the final land use decisions shall be filed with the Board of County Commissioners, 1300 Franklin Street, Vancouver, Washington, 98668 within 14 calendar days from the date the notice of final land use decision is mailed to parties of record.

Any appeal of the Land Use Hearings Examiner's final land use decision shall be in writing and contain the following:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 18.600.100A) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;

3. The specific aspect(s) of the decision and/or SEPA issue being appealed, the reasons why each aspect is in error as a matter of fact or law, and the evidence relied on to prove the error;
4. If the petitioner wants to introduce new evidence in support of the appeal, the written appeal must also explain why such evidence should be considered, based on the criteria in subsection 18.600.100(D)(2); and
5. A check in the amount of \$716 (made payable to the Clark County Board of County Commissioners) must accompany an appeal to the Board.





HEARING EXAMINER EXHIBITS

Project Name: PACIFIC OAKS SUBDIVISION

Case Number: PLD2009-00023; SEP2009-00039; HAB2009-00026

Hearing Date: September 10, 2009

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
1		CC Development Services	Aerial Map
2		CC Development Services	Vicinity Map
3		CC Development Services	Zoning Map
4		CC Development Services	Comprehensive Plan Map
5	5/7/09	Applicant: MSE Planning & Engineering	Full Size Maps – Proposed Plan
6	5/7/09	Applicant: MSE Planning & Engineering	Application: Application Form, Pre-App Rpt, GIS Packet, Narrative, Legal Lot Det., Boundary Survey, Stormwater Design Rpt, Wetland Determination, SEPA, Sewer Purveyor, Water Purveyor, School Dist Ltr, Arch Letter, Critical Areas Assessment, Traffic Rpt
7	7/10/09	Applicant: MSE Planning & Engineering	Oregon White Oak Mitigation Plan – Ecological Land Services, Inc.
8	7/10/09	Applicant: MSE Planning & Engineering	Arborist Report
9	5/21/09	CC Development Services	Development Review Fully Complete Determination
10	6/2/09	CC Development Services	Email to Planner re: Placing Project on Hold
11	6/11/09	State of Washington Dept of Fish & Wildlife – Bill Weiler	Letter re: Habitat Program Review
12	7/10/09	Applicant: MSE Planning & Engineering	Oregon White Oak Mitigation Plan – Ecological Land Services, Inc. (<u>Duplicate</u> of Exhibit 7)
13	7/10/09	Applicant: MSE Planning & Engineering	REVISED Full Size Plans
14	7/15/09	CC Development Services	Notice of Type III Development Review, Optional SEPA & Public Hearing
15	7/15/09	CC Development Services	Affidavit of Mailing Public Notice

EXHIBIT NO.	DATE	SUBMITTED BY	DESCRIPTION
15A	7/20/09	State of Washington Dept of Fish & Wildlife – Ted Labbe	Email re: protection of white oak
15B	7/28/09	CC Development Services	Lot Calculations for Revised Plat [Exhibit 13]
16	7/28/09	Department of Ecology	SEPA Comments
17	7/28/09	John Karpinski	Public Comment Email
18	7/31/09	CC Development Services	Early Issues Email to Applicant
19	8/3/09	State of Washington Dept of Fish & Wildlife – Ted Labbe	Email retracting 7/20/09 comments (Ex. 15A)
20	8/11/09	CC Development Services	Notice of Public Hearing for Sept 10, 2009
21	8/10/09	Applicant: MSE Planning & Engineering	Revised Project Narrative
22	8/10/09	Applicant: MSE Planning & Engineering	Response to Early Issues Email
23	8/10/09	Applicant: MSE Planning & Engineering	Alternative Phasing Plan
24	8/10/09	Applicant: MSE Planning & Engineering	Affidavit of Posting Land Use Sign
25	8/12/09	CC Development Services	Lot Calculations for Alternate Phasing Plan [Exhibit 23]
26	8/26/09	CC Development Services	Staff Report written by Vicki Kirsher
27	8/26/09	CC Development Services	Affidavit of Posting Public Notice
28	6/2/09	CC Development Services	Habitat Issues Meeting Summary
29	9/10/09	CC Development Services	Pictures of Power Point Presentation
30			
31			
32			
33			
34			

Copies of these exhibits can be viewed at:

Department of Community Development / Planning Division
1300 Franklin Street
Vancouver, WA 98666-9810